

# **3 FAM 6000 RETIREMENT**

## **3 FAM 6100 FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM AND FOREIGN SERVICE PENSION SYSTEM**

### **3 FAM 6110 FOREIGN SERVICE RETIREMENT— GENERAL**

*(TL:PER-422; 10-16-2001)*

#### **3 FAM 6111 AUTHORITIES**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service  
Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

The Foreign Service Retirement System and the Foreign Service Pension System are *governed* by:

- (1) Chapter 8 of the Foreign Service Act of 1980, as amended, 22 U.S.C. 4041 et seq.;
- (2) Chapters 83 and 84 of Title 5, U.S.C.;
- (3) E.O. 12289 of February 14, 1981 (46 Fed. Reg. 12693);
- (4) E.O. 12293 of February 23, 1981 (46 Fed. Reg. 13969);
- (5) E.O. 12446 of October 17, 1983 (48 Fed. Reg. 48443); and
- (6) *E.O. 13105 of November 2, 1998 (63 Fed Reg. 60201).*

### 3 FAM 6112 PURPOSE AND SCOPE

(TL:PER-422; 10-16-2001)

(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)

(Applies to individuals covered by FSRDS or FSPS)

a. This chapter contains regulations pertaining to coverage under the Foreign Service Retirement and Disability System (FSRDS), the Foreign Service Retirement and Disability System Offset (FSRDS Offset), and the Foreign Service Pension System (FSPS).

b. These regulations apply to all participants under these systems in the Department of State; the Agency for International Development; the *Foreign Service of the Department of Commerce*; the Foreign Agricultural Service and the Animal, Plant and Health Inspection Service of the Department of Agriculture; and the Peace Corps.

c. To the extent not provided for in the Act or in these regulations, retirement related issues will be considered in a manner consistent with regulations and guidelines issued by the Office of Personnel Management (OPM) in administering retirement benefits under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS).

### 3 FAM 6113 DEFINITIONS

(TL:PER-422; 10-16-2001)

(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)

(Applies to individuals covered by FSRDS or FSPS)

For purposes of 3 FAM 6100, these terms have the following definitions:

(1) **Act** means the Foreign Service Act of 1980, as amended.

(2) **Agencies** mean the Department of State, the U.S. Agency for International Development (USAID), *the Foreign Commercial Service of the Department of Commerce*, the Animal and Plant Health Inspection Service (APHIS) and the Foreign Agricultural Service (FAS) of the Department of Agriculture, and the Peace Corps (PC).

(3) **Annuitant** means any person including a former participant or survivor who meets all requirements for an annuity from the Fund under the provisions of the Act, or any other law and who has filed claim for such annuity.

(4) **Basic Salary** means the salary fixed by law or administrative action before deductions and exclusive of additional compensation of any kind. Basic salary excludes premium pay for overtime, night, Sunday, and holiday work, allowances, post and special differentials and chargé pay.

(5) **Chief of Mission** means a principal officer in charge of a diplomatic mission of the United States or of a U. S. Office abroad which has been designated diplomatic in nature or any member of the Foreign Service assigned under the terms of the Act to be chargé d'affaires or head of such a mission or office.

(6) **Child** means, except with reference to lump sum payments, an unmarried child, under the age of 18 years, or such unmarried child regardless of age who, because of physical or mental disability incurred before age 18 is incapable of self-support. In addition to the offspring of the participant, the term includes:

(a) An adopted child;

(b) A stepchild or recognized natural child who received more than one-half support from the participant; and

(c) A child who lived with and for whom a petition of adoption was filed by a participant, and who is adopted by the surviving spouse of the participant after the latter's death.

**Child** also means an unmarried student under the age of 22 years. For this purpose, a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while a student, is deemed to have become 22 years of age on the first day of July after the birthday.

(7) **Department** means the Department of State.

(8) **FMP/RAD** means the Retirement Accounts Division in the Bureau of Finance and Management Policy.

(9) **FSPS** means the Foreign Service Pension System.

(10) **FSRDS** means the Foreign Service Retirement and Disability System.

(11) **FSRDS Offset** means the Foreign Service Retirement and Disability System Offset.

(12) **Fund** means the Foreign Service Retirement and Disability Fund.

(13) **Military and naval service** means honorable active service:

(a) In the Armed Forces of the United States;

(b) In the Regular or Reserve Corps of the Public Health Service after June 30, 1960; or

(c) As a commissioned officer of the National Oceanic and Atmospheric Administration or predecessor organization after June 30, 1961.

This definition does not include service in the National Guard, except when ordered to active duty in the service of the United States.

(14) **M/DGHR/MED** means the Department's Office of Medical Services.

(15) **Participant** means a person described in 3 FAM 6121.

(16) **HR/RET** means the Office of Retirement in the Department's Bureau of *Human Resources*.

(17) **Student** means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, university, or comparable recognized educational institution. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years, semester, or terms if the interim or other period of nonattendance does not exceed five calendar months and if the child shows to the satisfaction of the Retirement Office (*HR/RET*) that the child has a bona fide intention of continuing to pursue such course during the school year, semester, or term immediately following the interim.

## **3 FAM 6114 FOREIGN SERVICE RETIREMENT PLANS**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

There are three different Foreign Service Retirement plans described in this section.

### **3 FAM 6114.1 Foreign Service Retirement and Disability System (FSRDS)**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

The FSRDS is the Foreign Service equivalent of the Civil Service Retirement System (CSRS) as described in chapter 83 of Title 5, U.S.C. Participation in this plan is not available to newly hired *USG* participants. Except as provided in 3 FAM 6114.4, participants currently contribute 7% of basic salary to the plan and the employing agency contributes 8.51. *Except as*

*otherwise provided, a participant's basic annuity is 2.0% of high three basic salary for each year of service.*

### **3 FAM 6114.2 Foreign Service Retirement and Disability System Offset (FSRDS Offset)**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

a. The FSRDS Offset is the Foreign Service equivalent of the CSRS Offset. It is essentially the same as FSRDS, except that participants must participate in social security coverage as a condition of employment. Participants *currently* contribute 7% of basic salary, less the social security contribution (Old Age, Survivors, and Disability Insurance (OASDI) tax) in effect for the tax year involved for income below the maximum taxable wage base. The employing agency contributes 8.51% of basic salary. Participants' basic annuity is calculated as under FSRDS, except that benefits are reduced by the amount of social security benefits then payable.

b. With the exception of the reduction in annuity for social security benefits, all references to FSRDS in this chapter apply to FSRDS Offset, unless otherwise specifically noted.

### **3 FAM 6114.3 Foreign Service Pension System (FSPS)**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

The FSPS is the Foreign Service equivalent of the Federal Employees Retirement System (FERS), as described in chapter 84 of Title 5, U.S.C. In general, all participants hired after December 31, 1983, participate in the FSPS. Participants *currently* contribute 1.3% of basic salary to the FSPS. The employing agency contributes an actuarially determined amount to reflect "normal cost" (less the employee contribution). Participants who are at least age 50 with 20 years of service receive a basic annuity of 1.7% of high three basic salary for the first 20 years of service and 1.0% of high three basic salary for service over 20 years.

## **3 FAM 6115 RESPONSIBILITIES**

### **3 FAM 6115.1 The Secretary of State**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

The Secretary of State and/or delegates are charged with administering the Foreign Service Retirement Systems and have charge of the adjudication of all claims for basic benefits arising under the FSRDS, FSRDS Offset, and the FSPS, and all matters directly or indirectly concerned with these adjudications.

### **3 FAM 6115.2 Deputy Assistant Secretary for Human Resources**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

The Deputy Assistant Secretary for *Human Resources* has responsibility for making the initial determination regarding participants' eligibility for disability benefits following consultations with the Office of Medical Services. The Deputy Assistant Secretary for Human Resources also decides requests for reconsideration from individuals or Agencies whose rights or interests are affected by a final decision of the Director of the Office of Retirement.

### **3 FAM 6115.3 Director, Office of Retirement**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

The Director of the Office of Retirement in the Bureau of *Human Resources* (HR/RET) is responsible for determining eligibility for nondisability retirement benefits under the FSRDS, FSRDS Offset, and the FSPS. The Director of the Office of Retirement shall consult with the Office of the Legal Adviser, when necessary.

### **3 FAM 6115.4 Director, Office of Compensation and Pension**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

The Director of the Office of Compensation and Pension, Domestic Financial Services, Bureau of Finance and Management Policy (FMP/F/DFS/OCP) is responsible for collection, payment, garnishment, financial administration and accounting of benefits under the FSRDS, the FSRDS Offset, and FSPS. The Director of the Office of Compensation and Pension shall consult with the Office of the Legal Adviser when necessary.

### **3 FAM 6115.5 Foreign Service Criminal Investigators and/or Inspectors of the Office of the Inspector General, Agency for International Development**

*(TL:PER-422; 10-16-2001)*

*(For USAID Only)*

*(Applies to individuals covered by FSRDS or FSPS)*

*a. The Agency for International Development shall determine and advise the Department which Foreign Service Criminal Investigators and/or Inspectors of the Office of the Inspector General of AID are appointed to law enforcement positions as defined in 5 U.S.C. 8331(20) or 5 U.S.C. 8401(17) as applicable.*

*b. Foreign Service Criminal Investigators and/or Inspectors of the Office of the Inspector General, Agency for International Development, shall be eligible to apply for retirement benefits under the special law enforcement provisions of 22 U.S.C. 4046 if they had previously been in the Civil Service and covered under the law enforcement provisions of 5 U.S.C. 8336(c) or 5 U.S.C. 8412(d) as applicable, or if they have been previously covered under the CSRS as law enforcement officers.*

*c. During the service covered under 22 U.S.C. 4045, the employing agency will deduct and withhold from the employee's basic pay the amount required under 22 U.S.C. 4045(a)(2). The additional employee withholding and agency contribution for covered and creditable service properly made as required by law are not separately refundable, even in the event that the employee or his or her survivor does not qualify for a special annuity computation under 22 U.S.C. 4046.*

### **3 FAM 6115.6 Agency Responsibilities**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

a. Each agency employing a participant under *one of* the Foreign Service Retirement Systems is required to contribute the total amount of the agency contribution according to 3 FAM 6134 to the Fund.

b. Each agency employing a participant under *one of* the Foreign Service retirement systems is required to withhold the appropriate amount of employee deductions from the basic salary paid each covered employee during each pay period. No employee deduction is due if an employee is not paid basic salary during a pay period.

c. Each employing agency employing a participant is required to record the appropriate amount of employee deductions on a retirement record maintained for each employee in a manner prescribed by *HR/RET*.

### **3 FAM 6116 RECONSIDERATION**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

a. An individual or agency whose rights or interests under the FSRDS, FSRDS Offset, or the FSPS are affected by a final decision of the Director of the Office of Retirement may request review of such decision by the Deputy Assistant Secretary for *Human Resources*.

b. An individual or agency whose rights or interests under the FSRDS, FSRDS Offset, or the FSPS are affected by a final decision of the Director of the Office of Compensation and Pension may request review of such decision by the Managing Director, Domestic Financial Services Directorate, FMP.

c. All requests for review under this section must:

(1) Be in writing;

(2) Include the individual's name;

(3) Address, date of birth, and social security number; and

(4) State the basis for the request and include all relevant documentation.

d. A request for reconsideration must be received by the reviewing official within 30 calendar days from the date of the original decision.

e. After reconsideration, and consultation with the Office of the Legal Adviser, as appropriate, the reviewing official shall issue a final decision in writing and which shall fully set forth the findings and conclusions of the reconsideration.

### **3 FAM 6117 GRIEVANCES**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

Nothing in this chapter affects the rights of an individual to grieve a decision to the Foreign Service Grievance Board in accordance with provisions of the Foreign Service Act and implementing regulations, or to request a waiver of collection of annuity overpayment under the procedures provided for in 22 CFR, part 17.

### **3 FAM 6118 RECORDS**

*(TL:PER-422; 10-16-2001)*

*(Uniform State/USAID/BBG/Commerce/Peace Corps/Foreign Service Corps—USDA)*

*(Applies to individuals covered by FSRDS or FSPS)*

a. *HR/RET* maintains retirement records for all participants in FSRDS, FSRDS Offset, and FSPS.

b. The individual's retirement record is the basic record for action on all claims for benefits.

c. If the official records are lost, destroyed, or incomplete, *HR/RET* will accept such secondary evidence that it considers appropriate under the circumstances.

### **3 FAM 6119 UNASSIGNED**